IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2007

CORAM:

THE HONOURABLE MR.JUSTICE A.C.ARUMUGAPERUMAL ADITYAN

CRL.R.C.No.773 OF 2006

Athiyannan @ Selvaraj .. Petitioner/REspondent

-vs-

1.Kuppulakshmi

2.Minor Vijayakumar
rep. By his mother Kuppulakshmi
.. Respondents/ Petitioners

This Revision is filed under Section 397 and 401 of CR. P.C against the order dated 19.06.2006 in C.M.P.No.1169 of 2005 in M.C.No.1 of 2003 on the file of the Judicial Magistrate, Rasipuram.

For petitioner : : Mr.P.Mathivanan

For respondents : : Mr.A.Thameen Mohideen

O R D E R

This revision has been preferred against the order passed in C.M.P.No.1169 of 2005 on the file of the Judicial Magistrate,Rasipuram dated 19.6.2006.

2.A1 and A2 have been charged under Sections 498A, and 302 IPC and under Section 4 of the Dowry Prohibition Act.

3. The first respondent herein /first petitioner Kuppulakshmi had filed M.C. 1 of 2003 on the file of Chief Judicial Magistrate, Rasipuram under Section 128 of Cr.P.C. for maintenance for her and also for her minor son Vijayakumar who is the second respondent herein. The trial Court has ordered maintenance of Rs.750/- per mensum for each of the petitioners in M.C.No.1 of 2003. Against the said award of maintenance, the respondent Athiyannan @ Selvaraj, the husband of the first petitioner Kuppulakshmi had filed a revision in C.R.P.No. 22 of 2004 before the Principal Sessions Judge, Namakkal who had modified the award of maintenance against both the respondents herein thereby reducing the maintenance amount from Rs.750/- per mensum to Rs.500/- each of the respondents herein.. Against the said order of the learned Principal

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Sessions Judge, Namakkal, no appeal or revision has been preferred by the respondents herein. So the order passed in C.R.P.No.22 of 2004 ihas become final.

4. In the mean time, the petitioners in M.C.No.1 of 2003 have preferred a petition under Section 128 Cr.P.C. before the Judicial Magistrate ,Rasipuram to execute the order of maintenance passed by the learned trial Judge in M.C.No.1 of 2003. Accordingly, the learned Judicial Magistrate has passed an order of arrest against the respondent, and arrested and produced before the trial Judge on 19.6.2006.Since he refused to pay the nine months arrears of maintenance amount,the learned trial Judge has ordered to commit the respondent to civil prison at Coimbatore for the arrears period of nine months. Against the order of the trial Court in C.M.P.No.1169 of 2005, this revision has been preferred .

5. A Conditional order was passed in this revision by this Court on 9.8.2006 directing the revision petitioner/husband to deposit 50% of the arrears of maintenance before the trial Court within a period of two weeks and this Court has further directed that on compliance of the said condition, the petitioner shall be released on bail by executing a bond of Rs.5,000/- with two sureties.

6. The learned counsel appearing for both sides represent that the abovesaid conditional order passed by this Court in Crl.M.P.No.1 of 2006 in Crl.R.C.No.773 of 2006 has been complied with by the revision petitioner which means the order passed by the trial Court in C.M.P.No.1169 of 2005 is not in force after the order passed by this Court in Crl.M.P.No.1 of 2006 in Crl.R.C.No.773 of 2006.

7.Under such circumstances, nothing survives in this revision because the revision petitioner has already been released on bail . The learned counsel for the respondents herein would admit that the wife Kuppulakshmi, the first respondent herein had already withdrawn the amount deposited by the revision petitioner before the trial Court.

8. Under such circumstances, nothing survives in this revision. If there is any arrears, once again, the respondents can resort to the remedy open to them under Section 128 of Cr.P.C. The learned counsel appearing for the respondents would represents that the bail granted to the revision petitioner may be cancelled. Accordingly, the bail granted to the revision petitioner in Crl.M.P.No.1 of 2006 in Crl.R.C.No.773 of 2006 is also stand cancelled.

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9.In fine, the revision petition is ordered.

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Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

To

1. The Judicial Magistrate, Rasipuram
2. -do through the Chief Judicial Magistrate, Namakkal.
3. The Superintendent Central Prison, Coimbatore.

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